

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

DESARAE SURRATT,

Plaintiff,

v.

ADT LLC of Delaware, d/b/a ADT
SECURITY SERVICES,

Defendant.

Case No.: 0:19-cv-02833-PAM-HB

**DECLARATION OF DANIEL S. BLYNN IN SUPPORT OF
DEFENDANTS MOTION TO STAY**

I, Daniel S. Blynn, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney and Partner in the law firm of Venable LLP, with offices at 600 Massachusetts Avenue, NW, Washington, DC 20001, attorneys for Defendant ADT LLC in the above-captioned action. I am of legal age, mentally competent to provide this Declaration, and offer it voluntarily. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would testify competently under oath to such facts.

2. Attached hereto as Exhibit “1” is a table identifying the 40 comments submitted by associations, businesses, individuals, and attorneys who represent plaintiffs in Telephone Consumer Protection Act (“TCPA”) litigation, as of June 13, 2018 – the deadline for comments to be submitted in response to the FCC’s May 14, 2018 Public Notice seeking comments on the interpretation of the TCPA in light of the D.C. Circuit’s decision issued in *ACA International v. FCC*, 885 F.3d 687 (D.C. Cir. 2018) (the “May

2018 Public Notice”). This table was compiled from the comments appearing on the FCC’s website.

3. Attached as Exhibit “2” is a table identifying the 31 comments submitted by associations, businesses, individuals, and attorneys who represent plaintiffs in TCPA litigations, which were received by the FCC by June 28, 2018, the reply comment deadline set forth in the FCC’s May 2018 Public Notice. This table was compiled from the comments appearing on the FCC’s website.

4. Attached as Exhibit “3” is a table identifying the 118 initial and reply comments submitted by associations, businesses, individuals, and attorneys who represent plaintiffs (and purported autodialer experts) in TCPA litigations, which were received by the FCC between October 3 and 24, 2018 (the comment period) in response to the Commission’s October 3, 2018 Public Notice seeking additional comments on the interpretation of the TCPA post-*ACA International* to supplement the record following the Ninth Circuit’s decision in *Marks v. Crunch San Diego, LLC*, 904 F.3d 1041 (9th Cir. 2018) (the “October 2018 Public Notice”). This table was compiled from the comments appearing on the FCC’s website.

5. On June 19, 2018, the Consumers Union, the advocacy division of Consumer Reports, met with the Associate Division Chief of the FCC’s Consumer and Governmental Affairs Bureau (“CGB”) about “the issues raised by the FCC’s recently-posted [May 2018] Public Notice.” A true and correct copy of Consumers Union’s June 21, 2018 letter to the FCC detailing that meeting is publicly available at the FCC’s website (*available at* <https://ecfsapi.fcc.gov/file/1062176013462/CU%20Ex%20Parte%2006.21.18.pdf>).

6. On July 24, 2018, Broadnet Teleservices LLC met separately with representatives of FCC Chairman Pai's office, Commissioners O'Rielly's and Carr's offices, and the FCC's CGB about the issues raised in the May 2018 Public Notice. A true and correct copy of Broadnet Teleservices' July 26, 2018 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/10727425417431/Broadnet%20Ex%20Parte%20for%207-24-18%20Meeting.pdf>).

7. On July 26, 2018, Sirius XM Radio Inc. met with representatives of the FCC's CGB about the issues raised in the May 2018 Public Notice. A true and correct copy of Sirius XM Radio's July 30, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1073068828509/SiriusXM%20Ex%20Parte%20for%207-26-18%20Meeting.pdf>).

8. On July 30, 2018, the U.S. Small Business Administration's ("SBA") Office of Advocacy met with representatives of FCC Chairman Pai's office about the issues raised in the May 2018 Public Notice. A true and correct copy of SBA's August 1, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* https://ecfsapi.fcc.gov/file/10801393021926/SBA%20Ex%20Parte_08_01_18.pdf).

9. On August 9, 2018, the CTIA, the association that represents the domestic wireless communications industry and companies throughout the mobile ecosystem, met separately with representatives of FCC Chairman Pai's office, and Commissioners O'Rielly's and Rosenworcel's offices about the issues raised in the May 2018 Public

Notice. A true and correct copy of CTIA's August 13, 2018 letter to the FCC detailing those meetings is available at the FCC's website (*available at <https://ecfsapi.fcc.gov/file/10813243015406/180813%20CTIA%20RND%20Ex%20Parte%20FINAL.pdf>*).

10. On August 14, 2018, the CTIA met with representatives of FCC Commissioner Carr's office about the issues raised in the May 2018 Public Notice. A true and correct copy of CTIA's August 14, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at <https://ecfsapi.fcc.gov/file/108140237715918/180814%20CTIA%20RND%20Ex%20Parte%20FINAL.pdf>*).

11. On September 17, 2018, the National Consumer Law Center ("NCLC"), the Consumers Union, Public Knowledge, the National Association of Consumer Advocates, and the Electronic Privacy Information Center (the "Consumer Groups") met with representatives from FCC Chairman Pai's office about the issues raised in the May 2018 Public Notice. A true and correct copy of the Consumer Groups' September 19, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at <https://ecfsapi.fcc.gov/file/1092012182746/ex%20parte%209-19-18.pdf>*).

12. On September 20, 2018, the American Association of Healthcare Administrative Management, Winning Strategies Washington, Anthem, Inc., Blue Cross Blue Shield Association, and WellCare Health Plans, Inc. met with representatives from FCC Chairman Pai's office about the issues raised in the May 2018 Public Notice. A true and correct copy of these organization's September 24, 2018 letter to the FCC detailing

that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/109251531714671/2018-09-24%20Joint%20Petition%20Ex%20Parte%20Notice.pdf>).

13. On October 23, 2018, the National Association of Federally-Insured Credit Unions met with representatives from the FCC's CGB about the issues raised in the May 2018 Public Notice. A true and correct copy of the National Association of Federally-Insured Credit Unions October 23, 2018 memorandum to the FCC detailing that meeting is publicly available at the FCC's website (*available at* https://ecfsapi.fcc.gov/file/1025198849383/Ex%20Parte%20Memo_FCC_10.25.2018.pdf).

14. On October 23, 2018, the NCLC had a conference call with the FCC's CGB about the issues raised in the May and October 2018 Public Notices. A true and correct copy of NCLC's October 25, 2018 letter to the FCC detailing that call is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1025734411166/ex%20parte10-25-18.docx>).

15. On October 25, 2018, NCLC had another conference call, this time with representatives from Commissioner Rosenworcel's office, about the issues raised in the May and October 2018 Public Notices. A true and correct copy of NCLC's October 26, 2018 letter to the FCC detailing that call is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/10261335114526/ex%20parte10-26-18.docx>).

16. On October 30, 2018, ADT met with representatives from Chairman Pai's, Commissioner's O'Rielly's, Rosenworcel's, and Carr's offices, and the FCC's CGB about

the issues raised in the May and October 2018 Public Notices. A true and correct copy of ADT's October 31, 2018 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at* [https://ecfsapi.fcc.gov/file/110157931085/Notice%20of%20Oct.%2030th%20Ex%20Part%20Meetings_Active\(Active\).PDF](https://ecfsapi.fcc.gov/file/110157931085/Notice%20of%20Oct.%2030th%20Ex%20Part%20Meetings_Active(Active).PDF)).

17. On November 1, 2018, Capital One met with representatives from the FCC's CGB about the issues raised in the May and October 2018 Public Notices. A true and correct copy of Capital One's November 5, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1105251661791/Capital%20One%20Ex%20Parte%20Letter%20to%20FCC%2011-5-18.pdf>).

18. On November 5, 2018, CallFire Inc. met with representatives from the FCC's Office of General Counsel about the issues raised in the May and October 2018 Public Notices. A true and correct copy of CallFire's November 6, 2018 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1106292057582/CallFire%20Marks%20v%20Crunch%20ex%20parte%20Nov%206%202018.pdf>).

19. On November 8, 2018 CallFire met with representatives from Chairman Pai's and Commissioner Rosenworcel's offices, and the FCC's CGB about the issues raised in the May and October 2018 Public Notices. A true and correct copy of CallFire's November 9, 2018 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at*

<https://ecfsapi.fcc.gov/file/1109067961445/Ex%20Parte%20CallFire%20TCPA%20and%20Marks%20v%20Crunch%2011%2009%202018.pdf>).

20. On November 13, 2018, NCTA – The Internet & Television Association (“NCTA”) met with representatives from the FCC’s CGB about the issues raised in the May and October 2018 Public Notices. A true and correct copy of the NCTA’s November 15, 2018 letter to the FCC detailing that meeting is publicly available at the FCC’s website (*available at* <https://ecfsapi.fcc.gov/file/1115984105672/111518%2018-152%2002-278%20ex%20parte.pdf>).

21. The Consumer Groups also sent a letter to the FCC on November 13, 2018 supplementing their previous June and October 2018 comments on the autodialer issues raised in the May and October 2018 Public Notices, and had a conference call with FCC Staff regarding that letter on November 15, 2018. True and correct copies of the Consumers Groups’ November 13 and 15, 2018 letters to the FCC are publicly available at the FCC’s website (*available at* <https://ecfsapi.fcc.gov/file/11142097310498/ex%20parte%20on%20smartphones%20-2011-13-18.pdf> and <https://ecfsapi.fcc.gov/file/11160649327143/ex%20parte%20on%20smartphones%20-2011-15-18.pdf>).

22. On November 19, 2018, Sirius XM Radio Inc. met with representatives from Chairman Pai’s and Commissioner Rosenworcel’s offices, Commissioner O’Rielly and members of his staff, and Commissioner Carr and members of his staff about the issues raised in the May and October 2018 Public Notices. A true and correct copy of Sirius

XM's November 20, 2018 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/112098665215/SiriusXM%20Ex%20Parte%20for%2011-19-18%20TCPA%20Meetings.pdf>).

23. On December 6, 2018, LiveVox, Inc. met with representatives from Chairman Pai's office and the FCC's CGB about the issues raised in the May and October 2018 Public Notices. A true and correct copy of LiveVox's December 10, 2018 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at* [https://ecfsapi.fcc.gov/file/1211792123015/LiveVox%20Ex%20Parte%20\(12-10-2018\).pdf](https://ecfsapi.fcc.gov/file/1211792123015/LiveVox%20Ex%20Parte%20(12-10-2018).pdf)).

24. On February 7, 2019, Capital One met with representatives from Commissioner Carr's office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of Capital One's February 11, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/10211686230595/Capital%20One%20Ex%20Parte%202-11-19.pdf>).

25. On February 21, 2019, Capital One met with representatives from Commissioner Starks' office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of Capital One's February 22, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/10222560701078/Capital%20One%20Ex%20Parte%20Letter%202-22-19.pdf>).

26. On February 27, 2019, NCTA met with representatives from Chairman Pai's office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of NCTA's March 1, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/103012483309360/030119%2018-152%2002-278%20NTA%20ex%20parte%20ATDS%20Definition.pdf>).

27. On March 12, 2019, American Airlines Credit Union and the Credit Union National Association met with representatives from Chairman Pai's office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of those entities' joint March 14, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* [https://ecfsapi.fcc.gov/file/10314737606719/Notice%20of%20March%2012th%20Ex%20Parte%20Meeting_Active\(Active\).PDF](https://ecfsapi.fcc.gov/file/10314737606719/Notice%20of%20March%2012th%20Ex%20Parte%20Meeting_Active(Active).PDF)).

28. On March 26, 2019, Nationstar Mortgage, LLC d/b/a Mr. Cooper met with representatives from Chairman Pai's, and Commissioners O'Rielly's, Carr's, Rosenworcel's, and Starks' offices about the issues raised in the May and October 2018 Public Notices. A true and correct copy of Nationstar's March 28, 2019 letter to the FCC detailing those meetings is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1032845658733/Nationstar%20Mortgage%2C%20LLC%20Ex%20Parte%20-%202019-03-28.PDF>).

29. On May 16, 2019, Portfolio Recovery Associates, LLC, Sirius XM Radio Inc., and the American Association of Healthcare Administrative Management met with

representatives from Chairman Pai' office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of those entities' joint May 20, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available at* <https://ecfsapi.fcc.gov/file/1052112390018/190520%20Ex%20Parte%20Letter%20%5BFINAL%5D.pdf>).

30. On September 17, 2019, the American Bankers Association met with representatives from Chairman Pai' office about the issues raised in the May and October 2018 Public Notices. A true and correct copy of the Association's September 17, 2019 letter to the FCC detailing that meeting is publicly available at the FCC's website (*available* *at* https://ecfsapi.fcc.gov/file/109182562617893/ABA_Ex_Parte_Letter_2019_09_17_final.pdf).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 25, 2019


Daniel S. Blynn